

ORDINANCE NO. 848

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PLEASANT HILL  
AMENDING SECTION 3.40.010 AND CHAPTER 13.20 OF THE PLEASANT HILL  
MUNICIPAL CODE REGARDING THE DIABLO VISTA WATER SYSTEM

WHEREAS, at the time of the City's incorporation in 1961, the property of the Diablo Valley Water District vested in the City, and the City has administered the affairs of the former district since that time, with the advice and recommendations of the Diablo Vista Water Advisory Committee; and

WHEREAS, the respective duties of the Diablo Vista Water System Advisory Committee and the City Council are set forth in Municipal Code Chapters 3.40 and 13.20; and

WHEREAS, in recent public meetings regarding a system drought management plan, it became evident that greater clarity was needed in the ordinance, regarding the duties and responsibilities of the City Council and the advisory water committee; and

WHEREAS, the City also wishes to change the name of the Diablo Vista Water Advisory Committee to the "Diablo Vista Water Advisory Board"; and

WHEREAS, the Diablo Vista Water Advisory Committee met on April 1 and April 14, 2010 and recommended approval of the proposed ordinance.

NOW, THEREFORE, the City Council of the City of Pleasant Hill does ordain as follows:

**Section 1.** Section 3.40.010 (Advisory committee), of the Pleasant Hill Municipal Code is renamed and amended to read as follows:

**"3.40.010 Advisory board.**

A. Creation and appointment. There is created an advisory board known as the "Diablo Vista Water Advisory Board" (the "board"). The board consists of three members, appointed by the city council, to implement PHMC Chapter 13.20. The board shall appoint a chair and vice chair from among its members. Each shall serve for two years, unless reappointed.

B. Term of office and filling vacancies. The term of office of each member is six years. Each member serves until his or her successor is appointed and qualified. The expiration of terms is staggered, so that a term expires every two years. (For example, terms expire in 2011, 2013 and 2015.) If there is a vacancy, the council shall fill the vacancy for the unexpired term in the same manner as an original appointment.

C. Qualifications. To be eligible for appointment as a member of the advisory board, a person shall have been a resident, property owner and consumer within the Diablo Vista Water System area for a period of at least one year preceding his or her appointment. Up to two board members may also function as staff engineers in addition to their board duties.

D. Ex-officio members; Staff liaison. The director of public works and community development, or his or her designee, serves as an ex-officio, nonvoting member of and staff liaison to the board.

The board shall keep an accurate record of its proceedings and transactions.

The staff liaison to the board shall attend meetings, maintain continuity of records, and assist with community outreach.

E. Duties. The water advisory board shall:

1. manage the day-to-day operations of the water system, including regulating the distribution of available water resources to system users, consistent with policies, rules and regulations adopted by the city council, and with the city's purchasing and contracts requirements of PHMC Chapter 5.10. The day-to-day management is subject to oversight by the city council and decisions may be appealed to the council under section 13.20.050;
2. supervise the operating personnel;
3. recommend to the director of public works and community development:
  - a. contracts with operating personnel; and
  - b. contracts for maintenance, repairs and improvements to the system;
4. advise and make recommendations to the city council in matters relating to the functions and affairs of the water system. This includes recommending that the council designate up to two of the board members to serve as staff engineers when the board is unable to hire independent engineers at acceptable rates;
5. perform such other duties as may be directed by the city council; and
6. designate board members to serve as emergency contacts, as needed.

F. Compensation. Compensation for the board members is established by City Council resolution. The two board members serving as staff engineers receive additional monthly compensation. Any board member who responds to an emergency also receives compensation for each occurrence.”

**Section 2.** Chapter 13.20 of the Pleasant Hill Municipal Code, Diablo Vista Water System, is amended to read as follows:

**Chapter 13.20  
DIABLO VISTA WATER SYSTEM**

Sections:

- 13.20.010 Findings and purpose.
- 13.20.020 Property merger – Property held in trust relationship.
- 13.20.030 Duties of city.
- 13.20.040 Operating personnel
- 13.20.050 Appeals

**13.20.010 Findings and purpose.**

- A. The city council finds that:
  - 1. The city, on the date of its incorporation, November 14, 1961, included entirely within its boundaries the Diablo Vista County Water District and, as a result of this inclusion, the district merged with the city;
  - 2. As a result of the merger of the district with the city, the district no longer had any independent existence on November 14, 1961, and the property of the district vested in the city. The city holds this property subject to the terms and conditions set forth in this chapter.
- B. The council recognizes that the area comprising the former district which serves only raw water is only a portion of the area within the boundaries of the city and because the interests of each are not entirely common and mutually identical, it is necessary to make special provisions for the administration of the property and affairs of the former district.
- C. It is the purpose of this chapter to:
  - 1. Provide for the orderly transfer of the property and affairs relating to the Diablo Vista water system to the city;
  - 2. Fix the terms and conditions of handling the property of the district;
  - 3. Provide for the administration of the affairs of the district having at least equivalent standards and level of service; and
  - 4. Ensure that the merger does not impose greater benefit or burdens, or both upon one or the other, than previously would have existed if the two separate entities had not merged.

**13.20.020 Property merger – Property held in trust relationship.**

- A. Property merger. The city council declares that the Diablo Vista County Water District

has been merged with the city and that title to all the property of the district is vested in the city, subject to the terms and conditions of a trust relationship set forth in subsection B of this section.

B. Property held in trust relationship. The city holds title to the former district property in trust for the benefit of those persons within the area now known as the Diablo Vista Water System. The city shall hold and administer the property for the benefit of the people and the area comprising the system, subject to the obligation to: manage the distribution of the available water with which the system is entrusted; and provide water resources and services at established rates for the people within the area comprising the system. It is the city's intention to: exercise responsible financial management; ensure fair rates and charges; provide responsive customer service; promote ethical behavior in the conduct of system business; ensure fair and open processes involving the public; and encourage water conservation.

C. Abandonment. If an alternate and more economical water service becomes available and the board recommends that the existing facilities be abandoned, the council may submit to the residents of the district at an election the question of whether or not the existing system should be abandoned.

#### **13.20.030 Duties of city.**

A. Governance of the district. The city council retains the ultimate responsibility for oversight of the district.

B. Appointments. The City shall:

1. appoint members to the Diablo Vista Advisory Board and establish compensation, under PHMC Chapter 3.40;
2. establish the maximum compensation for the operating personnel, under PHMC §13.20.040;
3. designate up to two of the board members to serve as staff engineers when the board is unable to hire independent contractors at acceptable rates.

C. Financial accounts; audit. The City shall:

1. receive revenues on behalf of the water system, whether from tax proceeds, usage and capital improvement assessments or any other source;
2. maintain at least two accounts on behalf of the water system, one for operating expenses and one for capital expenses. Monies received from the operation of the system and the proceeds of taxes, assessments and other sums shall be used solely for the purposes of administering and operating the water system;
3. make payments on behalf of the water system, at the direction of the board and consistent with the city's purchasing and contracts requirements, at PHMC Chapter 5.10.;
4. conduct an annual audit of the affairs of the water system.

The obligations incurred as a result of the operation and administration of the water system shall be paid solely from the funds received as a result of the operation of the system.

D. Establishing fees and charges. The city council shall establish by resolution: (i) the service charge for users; and (ii) service charges for connection, reconnection and discontinuance. The city council also has the authority to consider credits or refunds, and to implement a decision under PHMC §13.20.020C to abandon the system

E. Policies. The city council shall by resolution adopt policies, rules and regulations for the operation of the water system, which shall be implemented by the water advisory board. These shall include regulations for implementation of the service charge, disconnection charge, reconnection charge and for discontinuance of service.

F. Other. The city shall provide water service, except when changes are necessitated by drought, act of god, requirements imposed by other agencies, or lack of funding.

#### **13.20.050 Appeals.**

A final decision of the board may be appealed to the city council within 10 days of the decision, under procedures set forth in PHMC section 1.10.010E.

#### **13.20.040 Operating personnel.**

A. The board shall make recommendations to the director of public works and community development regarding contracts with operating personnel for the jobs set forth in the city council's compensation resolution.

B. A board member may not be selected as operating personnel for the system but up to two board members may serve as Staff Engineers pursuant to section 3.40.010 C if needed.

C. The operating personnel serve under contract, at the pleasure of the director of public works and community development. These jobs shall be maintained until such time as full-time city personnel can perform these functions more economically.

D. Maximum compensation for personnel of the Diablo Vista Water System is established by city council resolution."

**Section 3.** This ordinance shall be effective 30 days after its adoption.

**Section 4.** Within fifteen days after the passage of this ordinance, the City Clerk shall cause it to be posted in the four places designated by resolution of the City Council.

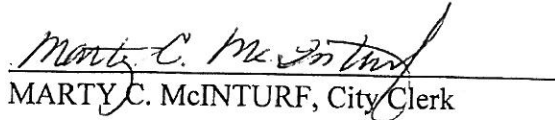
The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Pleasant Hill held on the 7<sup>th</sup> day of June, 2010.

ADOPTED and ordered posted at a meeting of the City Council of the City of Pleasant Hill, held on the 21<sup>st</sup> day of June, 2010, by the following vote:

AYES: Durant, Hanecak, Harris, Williamson, Mitchoff  
NOES: None  
ABSENT: None  
ABSTAIN: None

  
KAREN MITCHOFF, Mayor

ATTEST:

  
MARTY C. MCINTURF, City Clerk

APPROVED AS TO FORM:

  
DEBRA S. MARGOLIS, City Attorney